

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4040
OFFERED BY MR. DINGELL**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Consumer Product Safety Modernization Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. References.
- Sec. 3. Authority to issue implementing regulations.

TITLE I—CHILDREN’S PRODUCT SAFETY

- Sec. 101. Ban on children’s products containing lead; lead paint rule.
- Sec. 102. Mandatory third-party testing for certain children’s products.
- Sec. 103. Tracking labels for children’s products.
- Sec. 104. Standards and consumer registration of durable nursery products.
- Sec. 105. Labeling requirement for certain internet and catalogue advertising of toys and games.
- Sec. 106. Study of preventable injuries and deaths in minority children related to consumer products.
- Sec. 107. Review of generally-applicable standards for toys.

TITLE I—CONSUMER PRODUCT SAFETY COMMISSION REFORM

- Sec. 201. Reauthorization of the Commission.
- Sec. 202. Structure and quorum.
- Sec. 203. Submission of copy of certain documents to Congress.
- Sec. 204. Expedited rulemaking.
- Sec. 205. Public disclosure of information.
- Sec. 206. Publicly available information on incidents involving injury or death.
- Sec. 207. Prohibition on stockpiling under other Commission-enforced statutes.
- Sec. 208. Notification of noncompliance with any Commission-enforced statute.
- Sec. 209. Corrective action plans.
- Sec. 210. Website notice, notice to third party internet sellers, and radio and television notice.

- Sec. 211. Inspection of certified proprietary laboratories.
- Sec. 212. Identification of manufacturer, importers, retailers, and distributors.
- Sec. 213. Export of recalled and non-conforming products.
- Sec. 214. Prohibition on sale of recalled products.
- Sec. 215. Increased civil penalty.
- Sec. 216. Criminal penalties to include asset forfeiture.
- Sec. 217. Enforcement by State attorneys general.
- Sec. 218. Effect of rules on preemption.
- Sec. 219. Sharing of information with Federal, State, local, and foreign government agencies.
- Sec. 220. Inspector General authority and accessibility.
- Sec. 221. Repeal.
- Sec. 222. Industry-sponsored travel ban.
- Sec. 223. Annual reporting requirement.

1 **SEC. 2. REFERENCES.**

2 (a) COMMISSION.—As used in this Act, the term
3 “Commission” means the Consumer Product Safety Com-
4 mission.

5 (b) CONSUMER PRODUCT SAFETY ACT.—Except as
6 otherwise expressly provided, whenever in this Act an
7 amendment is expressed as an amendment to a section
8 or other provision, the reference shall be considered to be
9 made to a section or other provision of the Consumer
10 Product Safety Act (15 U.S.C. 2051 et seq.).

11 (c) RULE.—In this Act and the amendments made
12 by this Act, a reference to any rule under any Act enforced
13 by the Commission shall be considered a reference to any
14 rule, standard, ban, or order under any such Act.

15 **SEC. 3. AUTHORITY TO ISSUE IMPLEMENTING REGULA-**
16 **TIONS.**

17 The Commission may issue regulations, as necessary,
18 to implement this Act and the amendments made by this
19 Act.

1 **TITLE I—CHILDREN’S PRODUCT**
2 **SAFETY**

3 **SEC. 101. BAN ON CHILDREN’S PRODUCTS CONTAINING**
4 **LEAD; LEAD PAINT RULE.**

5 (a) CHILDREN’S PRODUCTS CONTAINING LEAD.—

6 (1) BANNED HAZARDOUS SUBSTANCE.—Effective
7 tive 180 days after the date of enactment of this
8 Act, any children’s product containing more than the
9 amounts of lead set forth in paragraph (2) shall be
10 a banned hazardous substance within the meaning of
11 section 2(q)(1) of the Federal Hazardous Substances
12 Act (15 U.S.C. 1261(q)(1)).

13 (2) STANDARD FOR AMOUNT OF LEAD.—The
14 amounts of lead referred to in paragraph (1) shall
15 be—

16 (A) 600 parts per million total lead con-
17 tent by weight for any part of the product;

18 (B) 300 parts per million total lead con-
19 tent by weight for any part of the product, ef-
20 fective 2 years after the date of enactment of
21 this Act; and

22 (C) 100 parts per million total lead content
23 by weight for any part of the product, effective
24 4 years after the date of enactment of this Act,
25 unless the Commission determines, after notice

1 and a hearing, that a standard of 100 parts per
2 million is not feasible, in which case the Com-
3 mission shall require the lowest amount of lead
4 that the Commission determines is feasible to
5 achieve.

6 (3) COMMISSION REVISION TO MORE PROTEC-
7 TIVE STANDARD.—

8 (A) MORE PROTECTIVE STANDARD.—The
9 Commission may, by rule, revise the standard
10 set forth in paragraph (2)(C) for any class of
11 children's products to any level and form that
12 the Commission determines is—

13 (i) more protective of human health;

14 and

15 (ii) feasible to achieve.

16 (B) PERIODIC REVIEW.—The Commission
17 shall, based on the best available scientific and
18 technical information, periodically review and
19 revise the standard set forth in this section to
20 require the lowest amount of lead that the
21 Commission determines is feasible to achieve.

22 (4) COMMISSION AUTHORITY TO EXCLUDE CER-
23 TAIN MATERIALS.—The Commission may, by rule,
24 exclude certain products and materials from the pro-
25 hibition in paragraph (1) if the Commission deter-

1 mines that the lead content in such products and
2 materials will not result in the absorption of lead in
3 the human body or does not have any adverse im-
4 pact on public health or safety.

5 (5) DEFINITION OF CHILDREN'S PRODUCT.—

6 (A) IN GENERAL.—As used in this sub-
7 section, the term “children’s product” means a
8 consumer product as defined in section 3(1) of
9 the Consumer Product Safety Act (15 U.S.C.
10 2052(1)) designed or intended primarily for
11 children 12 years of age or younger.

12 (B) FACTORS TO BE CONSIDERED.—In de-
13 termining whether a product is primarily in-
14 tended for a child 12 years of age or younger,
15 the following factors shall be considered:

16 (i) A statement by a manufacturer
17 about the intended use of such product, in-
18 cluding a label on such product if such
19 statement is reasonable.

20 (ii) Whether the product is rep-
21 resented in its packaging, display or adver-
22 tising as appropriate for use by children 12
23 years of age or younger.

24 (iii) Whether the product is commonly
25 recognized by consumers as being intended

1 for use by child 12 years of age or young-
2 er.

3 (iv) The Age Determination Guide-
4 lines issued by the Commission staff in
5 September 2002, and any successor there-
6 to.

7 (6) EXCEPTION FOR INACCESSIBLE COMPO-
8 NENT PARTS.—The standards established under
9 paragraph (2) shall not apply to any component part
10 of a children's product that is not accessible to a
11 child through normal and reasonably foreseeable use
12 and abuse of such product, as determined by the
13 Commission. A component part is not accessible
14 under this paragraph if such component part is not
15 physically exposed by reason of a sealed covering or
16 casing and does not become physically exposed
17 through reasonably foreseeable use and abuse of the
18 product. The Commission may require that certain
19 electronic devices be equipped with a child-resistant
20 cover or casing that prevents exposure of and acces-
21 sibility to the parts of the product containing lead
22 if the Commission determines that it is not feasible
23 for such products to otherwise meet such standards.

24 (b) PAINT STANDARD.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the Commis-
3 sion shall modify section 1303.1 of title 16, Code of
4 Federal Regulations, to—

5 (A) reduce the standard applicable to lead
6 paint by substituting “0.009 percent” for “0.06
7 percent” in subsection (a) of that section;

8 (B) apply the standard to all children’s
9 products as defined in subsection (a)(5); and

10 (C) reduce the standard for paint and
11 other surface coating on children’s products and
12 furniture to 0.009 milligrams per centimeter
13 squared.

14 (2) MORE PROTECTIVE STANDARD.—Not later
15 than 3 years after the date of enactment of this Act,
16 the Commission shall, by rule, revise the standard
17 established under paragraph (1)(C) to a more pro-
18 tective standard if the Commission determines such
19 a standard to be feasible.

20 (c) AUTHORITY TO EXTEND IMPLEMENTATION PERI-
21 ODS.—The Commission may extend, by rule, the effective
22 dates in subsections (a) and (b) by an additional period
23 not to exceed 180 days if the Commission determines
24 that—

1 (1) there is no impact on public health or safety
2 from extending the implementation period; and

3 (2)(A) the complete implementation of the new
4 standards by manufacturers subject to such stand-
5 ards is not feasible within 180 days;

6 (B) the cost of such implementation, particu-
7 larly on small and medium sized enterprises, is ex-
8 cessive; or

9 (C) the Commission requires additional time to
10 implement such standards and determine the re-
11 quired testing methodologies and appropriate excep-
12 tions in order to enforce such standards.

13 **SEC. 102. MANDATORY THIRD-PARTY TESTING FOR CER-**
14 **TAIN CHILDREN'S PRODUCTS.**

15 (a) MANDATORY AND THIRD-PARTY TESTING.—Sec-
16 tion 14(a) (15 U.S.C. 2063(a)) is amended—

17 (1) in paragraph (1)—

18 (A) by striking “Every manufacturer” and
19 inserting “Except as provided in paragraph (2),
20 every manufacturer”; and

21 (B) by striking “standard under this Act”
22 and inserting “rule under this Act or similar
23 rule under any other Act enforced by the Com-
24 mission”;

1 (2) by redesignating paragraph (2) as para-
2 graph (3) and inserting after paragraph (1) the fol-
3 lowing:

4 “(2) Effective 1 year after the date of enact-
5 ment of the Consumer Product Safety Modernization
6 Act, every manufacturer of a children’s product (and
7 the private labeler of such children’s product if such
8 product bears a private label) which is subject to a
9 consumer product safety rule under this Act or a
10 similar rule or standard under any other Act en-
11 forced by the Commission, shall—

12 “(A) have the product tested by a inde-
13 pendent third party qualified to perform such
14 tests or a proprietary laboratory certified by the
15 Commission under subsection (e) ; and

16 “(B) issue a certificate which shall—

17 “(i) certify that such product con-
18 forms to such standards or rules; and

19 “(ii) specify the applicable consumer
20 product safety standards or other similar
21 rules.”; and

22 (3) in paragraph (3) (as so redesignated)—

23 (A) by striking “required by paragraph (1)
24 of this subsection” and inserting “required by

1 paragraph (1) or (2) (as the case may be)”;
2 and

3 (B) by striking “requirement under para-
4 graph (1)” and inserting “requirement under
5 paragraph (1) or (2) (as the case may be)”.

6 (b) DEFINITION OF CHILDREN’S PRODUCTS AND
7 INDEPENDENT THIRD PARTY.—Section 14 (15 U.S.C.
8 2063) is amended by adding at the end the following:

9 “(d) DEFINITIONS.—In this section, the following
10 definitions apply:

11 “(1) The term ‘children’s product’ means a con-
12 sumer product designed or intended primarily for
13 children 12 years of age or younger. In determining
14 whether a product is primarily intended for a child
15 12 years of age or younger, the following factors
16 shall be considered:

17 “(A) A statement by a manufacturer about
18 the intended use of such product, including a
19 label on such product if such statement is rea-
20 sonable.

21 “(B) Whether the product is represented
22 in its packaging, display or advertising as ap-
23 propriate for use by children 12 years of age or
24 younger.

1 “(C) Whether the product is commonly
2 recognized by consumers as being intended for
3 use by child 12 years of age or younger.

4 “(D) The Age Determination Guidelines
5 issued by the Commission staff in September
6 2002, and any successor thereto.

7 “(2) The term ‘independent third party’, means
8 an independent testing entity that is not owned,
9 managed, controlled, or directed by such manufac-
10 turer or private labeler, and that is accredited in ac-
11 cordance with an accreditation process established or
12 recognized by the Commission. In the case of certifi-
13 cation of art material or art material products re-
14 quired under this section or under regulations issued
15 under the Federal Hazardous Substances Act, such
16 term includes a certifying organization, as such term
17 is defined in appendix A to section 1500.14(b)(8) of
18 title 16, Code of Federal Regulations.”.

19 (c) CERTIFICATION OF PROPRIETARY LABORA-
20 TORIES.—Section 14 (15 U.S.C. 2063) is further amended
21 by adding at the end the following:

22 “(e) CERTIFICATION OF PROPRIETARY LABORA-
23 TORIES FOR MANDATORY TESTING.—

24 “(1) CERTIFICATION.—Upon request, the Com-
25 mission, or an independent standard-setting organi-

1 zation to which the Commission has delegated such
2 authority, may certify a laboratory that is owned,
3 managed, controlled, or directed by the manufac-
4 turer or private labeler for purposes of testing re-
5 quired under this section if the Commission deter-
6 mines that—

7 “(A) certification of the laboratory would
8 provide equal or greater consumer safety pro-
9 tection than the manufacturer’s use of an inde-
10 pendent third party laboratory;

11 “(B) the laboratory has established proce-
12 dures to ensure that the laboratory is protected
13 from undue influence, including pressure to
14 modify or hide test results, by the manufacturer
15 or private labeler; and

16 “(C) the laboratory has established proce-
17 dures for confidential reporting of allegations of
18 undue influence to the Commission.

19 “(2) DECERTIFICATION.—The Commission, or
20 an independent standard-setting organization to
21 which the Commission has delegated such authority,
22 may decertify any laboratory certified under para-
23 graph (1) if the Commission finds, after notice and
24 investigation, that a manufacturer or private labeler
25 has exerted undue influence on the laboratory.”.

1 (d) CONFORMING AMENDMENTS.—Section 14(b) (15
2 U.S.C. 2063(b)) is amended—

3 (1) by striking “standards under this Act” and
4 inserting “rules under this Act or similar rules
5 under any other Act enforced by the Commission”;
6 and

7 (2) by striking “, at the option of the person re-
8 quired to certify the product,” and inserting “be re-
9 quired by the Commission to”.

10 **SEC. 103. TRACKING LABELS FOR CHILDREN’S PRODUCTS.**

11 Section 14(a) (15 U.S.C. 2063(a)) is further amend-
12 ed by adding at the end the following:

13 “(4) Effective 1 year after the date of enact-
14 ment of the Consumer Product Safety Modernization
15 Act, the manufacturer of a children’s product shall,
16 to the extent feasible, place distinguishing marks on
17 the product and its packaging that will enable the
18 manufacturer and the ultimate purchaser to ascer-
19 tain the location and date of production of the prod-
20 uct, and any other information determined by the
21 manufacturer to facilitate ascertaining the specific
22 source of the product by reference to those marks.”.

1 **SEC. 104. STANDARDS AND CONSUMER REGISTRATION OF**
2 **DURABLE NURSERY PRODUCTS.**

3 (a) **SHORT TITLE.**—This section may be cited as the
4 “Danny Keysar Child Product Safety Notification Act”.

5 (b) **SAFETY STANDARDS.**—

6 (1) **IN GENERAL.**—The Commission shall—

7 (A) in consultation with representatives of
8 consumer groups, juvenile product manufactur-
9 ers, and independent child product engineers
10 and experts, examine and assess the effective-
11 ness of any voluntary consumer product safety
12 standards for durable infant or toddler product;
13 and

14 (B) in accordance with section 553 of title
15 5, United States Code, promulgate consumer
16 product safety rules that—

17 (i) are substantially the same as such
18 voluntary standards; or

19 (ii) are more stringent than such vol-
20 untary standards, if the Commission deter-
21 mines that more stringent standards would
22 further reduce the risk of injury associated
23 with such products.

24 (2) **TIMETABLE FOR RULEMAKING.**—Not later
25 than 1 year after the date of enactment of this Act,
26 the Commission shall commence the rulemaking re-

1 required under paragraph (1) and shall promulgate
2 rules for no fewer than 2 categories of durable nurs-
3 ery products every 6 months thereafter, beginning
4 with the product categories that the Commission de-
5 termines to be of highest priority, until the Commis-
6 sion has promulgated standards for all such product
7 categories. Thereafter, the Commission shall periodi-
8 cally review and revise the rules set forth under this
9 subsection to ensure that such rules provide the
10 highest level of safety for such products that is fea-
11 sible.

12 (c) CONSUMER REGISTRATION REQUIREMENT.—

13 (1) RULEMAKING.—Not later than 1 year after
14 the date of enactment of this Act, the Commission
15 shall, pursuant to its authority under section 16(b)
16 of the Consumer Product Safety Act (15 U.S.C.
17 2065(b)), promulgate a final consumer product safe-
18 ty rule to require manufacturers of durable infant or
19 toddler products—

20 (A) to provide consumers with a postage-
21 paid consumer registration form with each such
22 product;

23 (B) to maintain a record of the names, ad-
24 dresses, email addresses, and other contact in-
25 formation of consumers who register their own-

1 ership of such products with the manufacturer
2 in order to improve the effectiveness of manu-
3 facturer campaigns to recall such products; and

4 (C) to permanently place the manufacturer
5 name and contact information, model name and
6 number, and the date of manufacture on each
7 durable infant or toddler product.

8 (2) REQUIREMENTS FOR REGISTRATION
9 FORM.—The registration form required to be pro-
10 vided to consumers under subsection (a) shall—

11 (A) include spaces for a consumer to pro-
12 vide their name, address, telephone number,
13 and email address;

14 (B) include space sufficiently large to per-
15 mit easy, legible recording of all desired infor-
16 mation;

17 (C) be attached to the surface of each du-
18 rable infant or toddler product so that, as a
19 practical matter, the consumer must notice and
20 handle the form after purchasing the product;

21 (D) include the manufacturer's name,
22 model name and number for the product, and
23 the date of manufacture;

1 (E) include a message explaining the pur-
2 pose of the registration and designed to encour-
3 age consumers to complete the registration;

4 (F) include an option for consumers to
5 register through the Internet; and

6 (G) include a statement that information
7 provided by the consumer shall not be used for
8 any purpose other than to facilitate a recall of
9 or safety alert regarding that product.

10 In issuing regulations under this section, the Com-
11 mission may prescribe the exact text and format of
12 the required registration form.

13 (3) RECORD KEEPING AND NOTIFICATION RE-
14 QUIREMENTS.—The standard required under this
15 section shall require each manufacturer of a durable
16 infant or toddler product to maintain a record of
17 registrants for each product manufactured that in-
18 cludes all of the information provided by each con-
19 sumer registered, and to use such information to no-
20 tify such consumers in the event of a voluntary or
21 involuntary recall of or safety alert regarding such
22 product. Each manufacturer shall maintain such a
23 record for a period of not less than 6 years after the
24 date of manufacture of the product. Consumer infor-
25 mation collected by a manufacturer under this Act

1 may not be used by the manufacturer, nor dissemi-
2 nated by such manufacturer to any other party, for
3 any purpose other than notification to such con-
4 sumer in the event of a product recall or safety
5 alert.

6 (4) STUDY.—The Commission shall conduct a
7 study at such time as it considers appropriate on the
8 effectiveness of the consumer registration forms in
9 facilitating product recalls and whether such reg-
10 istration forms should be required for other chil-
11 dren’s products. Not later than 4 years after the
12 date of enactment of this Act, the Commission shall
13 report its findings to Congress.

14 (d) DEFINITION OF DURABLE INFANT OR TODDLER
15 PRODUCT.—As used in this section, the term “durable in-
16 fant or toddler product”—

17 (1) means a durable product intended for use,
18 or that may be reasonably expected to be used, by
19 children under the age of 5 years; and

20 (2) shall include—

21 (A) full-size cribs and nonfull-size cribs;

22 (B) toddler beds;

23 (C) high chairs, booster chairs, and hook-
24 on chairs;

25 (D) bath seats;

- 1 (E) gates and other enclosures for con-
2 fining a child;
3 (F) play yards;
4 (G) stationary activity centers;
5 (H) infant carriers;
6 (I) strollers;
7 (J) walkers;
8 (K) swings; and
9 (L) bassinets and cradles.

10 **SEC. 105. LABELING REQUIREMENT FOR CERTAIN INTER-**
11 **NET AND CATALOGUE ADVERTISING OF TOYS**
12 **AND GAMES.**

13 Section 24 of the Federal Hazardous Substances Act
14 (15 U.S.C. 1278) is amended—

15 (1) by redesignating subsections (c) and (d) as
16 subsections (d) and (e), respectively;

17 (2) by inserting after subsection (b) the fol-
18 lowing:

19 “(c) INTERNET, CATALOGUE, AND OTHER ADVER-
20 TISING.—

21 “(1) REQUIREMENT.—Effective 180 days after
22 the Consumer Product Safety Modernization Act,
23 any advertisement of a retailer, manufacturer, im-
24 porter, distributor, private labeler, or licensor that
25 provides a direct means for the purchase or ordering

1 of any toy, game, balloon, small ball, or marble that
2 requires a cautionary statement under subsections
3 (a) and (b), including advertisement on Internet
4 websites or in catalogues or other distributed mate-
5 rials, shall include the appropriate cautionary state-
6 ment required under such subsections in its entirety
7 displayed on or immediately adjacent to such adver-
8 tisement. Such cautionary statement shall be dis-
9 played in the language that is primarily used in the
10 advertisement, catalogue, or Internet website, and in
11 a clear and conspicuous manner consistent with part
12 1500 of title 16, Code of Federal Regulations (or a
13 successor regulation thereto).

14 “(2) ENFORCEMENT.—The requirement in
15 paragraph (1) shall be treated as a consumer prod-
16 uct safety rule promulgated under section 7 of the
17 Consumer Product Safety Act (15 U.S.C. 2056) and
18 the publication or distribution of any advertisement
19 that is not in compliance with the requirements of
20 paragraph (1) shall be treated as a prohibited act
21 under section 19 of such Act (15 U.S.C. 2068).

22 “(3) RULEMAKING.—Not later than 180 days
23 after the date of enactment of Consumer Product
24 Safety Modernization Act, the Commission shall, by
25 rule, modify the requirement under paragraph (1)

1 with regard to catalogues or other printed materials
2 concerning the size and placement of the cautionary
3 statement required under such paragraph as appro-
4 priate relative to the size and placement of the ad-
5 vertisements in such printed materials. The Commis-
6 sion may, under such rule, provide a grace period for
7 catalogues and printed materials printed prior to the
8 effective date in paragraph (1) during which time
9 distribution of such printed materials shall not be
10 considered a violation of such paragraph.”.

11 **SEC. 106. STUDY OF PREVENTABLE INJURIES AND DEATHS**
12 **IN MINORITY CHILDREN RELATED TO CON-**
13 **SUMER PRODUCTS.**

14 (a) IN GENERAL.—Not later than 90 days after the
15 date of the enactment of this Act, the Comptroller General
16 shall initiate a study to assess disparities in the risks and
17 incidence of preventable injuries and deaths among chil-
18 dren of minority populations, including Black, Hispanic,
19 American Indian, Alaskan native, and Asian/Pacific Is-
20 lander children in the United States. The Comptroller
21 General shall consult with the Commission as necessary.

22 (b) REQUIREMENTS.—The study shall examine the
23 racial disparities of the rates of preventable injuries and
24 deaths related to suffocation, poisonings, and drownings
25 associated with the use of cribs, mattresses and bedding

1 materials, swimming pools and spas, and toys and other
2 products intended for use by children.

3 (c) REPORT.—Not later than 1 year after the date
4 of the enactment of this Act, the Comptroller General shall
5 report the findings to the Committee on Energy and Com-
6 merce of the House of Representatives and the Committee
7 on Commerce, Science, and Transportation of the Senate.
8 The report shall include—

9 (1) the Comptroller General’s findings on the
10 incidence of preventable risks of injuries and deaths
11 among children of minority populations and rec-
12 ommendations for minimizing such risks;

13 (2) recommendations for public outreach,
14 awareness, and prevention campaigns specifically
15 aimed at racial minority populations; and

16 (3) recommendations for education initiatives
17 that may reduce statistical disparities.

18 **SEC. 107. REVIEW OF GENERALLY-APPLICABLE STANDARDS**

19 **FOR TOYS.**

20 (a) ASSESSMENT.—The Commission shall examine
21 and assess the effectiveness of the safety standard for
22 toys, ASTM-International standard F963–07, to deter-
23 mine—

1 (1) the scope of such standards, including the
2 number and type of toys to which such standards
3 apply;

4 (2) the degree of adherence to such standards
5 on the part of manufacturers; and

6 (3) the adequacy of such standards in pro-
7 tecting children from safety hazards.

8 (b) SPECIAL FOCUS ON MAGNETS.—In conducting
9 the assessment required under subsection (a), the Com-
10 mission shall first examine the effectiveness of the F963-
11 07 standard as it relates to intestinal blockage and per-
12 foration hazards caused by ingestion of magnets. If the
13 Commission determines based on the review that there is
14 substantial noncompliance with such standard that creates
15 an unreasonable risk of injury or hazard to children, the
16 Commission shall expedite a rulemaking to consider the
17 adoption, as a consumer product safety rule, of the vol-
18 untary safety standards contained within the ASTM 963-
19 07 that relate to intestinal blockage and perforation haz-
20 ards caused by ingestion of magnets.

21 (c) REPORT.—Not later than 2 years after the date
22 of enactment of this Act, the Commission shall report to
23 Congress the findings of the study conducted pursuant to
24 subsection (a). Such report shall include the Commission's
25 opinion regarding—

1 (1) the feasibility of requiring manufacturer
2 testing of all toys to such standards; and

3 (2) whether promulgating consumer product
4 safety rules that are substantially similar or more
5 stringent than the standards described in such sub-
6 section would be beneficial to public health and safe-
7 ty.

8 **TITLE I—CONSUMER PRODUCT**
9 **SAFETY COMMISSION REFORM**

10 **SEC. 201. REAUTHORIZATION OF THE COMMISSION.**

11 (a) AUTHORIZATION OF APPROPRIATIONS.—Sub-
12 sections (a) and (b) of section 32 (15 U.S.C. 2081) are
13 amended to read as follows:

14 “(a) There are authorized to be appropriated to the
15 Commission for the purpose of carrying out the provisions
16 of this Act and any other provision of law the Commission
17 is authorized or directed to carry out—

18 “(1) \$80,000,000 for fiscal year 2009;

19 “(2) \$90,000,000 for fiscal year 2010; and

20 “(3) \$100,000,000 for fiscal year 2011.

21 “(b) In addition to the amounts specified in sub-
22 section (a), there are authorized to be appropriated
23 \$20,000,000 to the Commission for fiscal years 2009
24 through 2011, for the purpose of renovation, repair, recon-
25 struction, re-equipping, and making other necessary cap-

1 ital improvements to the Commission’s research, develop-
2 ment, and testing facility (including bringing the facility
3 into compliance with applicable environmental, safety, and
4 accessibility standards).”.

5 (b) REPORT TO CONGRESS.—Not later than 180 days
6 after the date of enactment of this Act, the Commission
7 shall transmit to Congress a report of its plans to allocate
8 the funding authorized by subsection (a). Such report
9 shall include—

10 (1) the number of full-time inspectors and other
11 full-time equivalents the Commission intends to em-
12 ploy;

13 (2) the plan of the Commission for risk assess-
14 ment and inspection of imported consumer products;

15 (3) an assessment of the feasibility of man-
16 dating bonds for serious hazards and repeat offend-
17 ers and Commission inspection and certification of
18 foreign third-party and proprietary testing facilities;
19 and

20 (4) the efforts of the Commission to reach and
21 educate retailers of second-hand products and infor-
22 mal sellers, such as thrift shops and yard sales, con-
23 cerning consumer product safety standards and
24 product recalls, especially those relating to durable
25 nursery products, in order to prevent the resale of

1 any products that have been recalled, including the
2 development of educational materials for distribution
3 not later than 1 year after the date of enactment of
4 this Act.

5 **SEC. 202. STRUCTURE AND QUORUM.**

6 (a) **EXTENSION OF TEMPORARY QUORUM.**—Notwith-
7 standing section 4(d) of the Consumer Product Safety Act
8 (15 U.S.C. 2053(d)), 2 members of the Commission, if
9 they are not affiliated with the same political party, shall
10 constitute a quorum for the transaction of business for
11 the period beginning on the date of enactment of this Act
12 through—

13 (1) August 3, 2008, if the President nominates
14 a person to fill a vacancy on the Commission prior
15 to such date; or

16 (2) the earlier of—

17 (A) 3 months after the date on which the
18 President nominates a person to fill a vacancy
19 on the Commission after such date; or

20 (B) February 3, 2009.

21 (b) **REPEAL OF LIMITATION.**—The first proviso in
22 the account under the heading “CONSUMER PRODUCT
23 SAFETY COMMISSION, SALARIES AND EXPENSES” in title
24 III of Public Law 102–389 (15 U.S.C. 2053 note) shall
25 cease to be in effect after fiscal year 2010.

1 **SEC. 203. SUBMISSION OF COPY OF CERTAIN DOCUMENTS**
2 **TO CONGRESS.**

3 (a) IN GENERAL.—Notwithstanding any rule, regula-
4 tion, or order to the contrary, the Commission shall com-
5 ply with the requirements of section 27(k) of the Con-
6 sumer Product Safety Act (15 U.S.C. 2076) with respect
7 to budget recommendations, legislative recommendations,
8 testimony, and comments on legislation submitted by the
9 Commission to the President or the Office of Management
10 and Budget after the date of enactment of this Act.

11 (b) REINSTATEMENT OF REQUIREMENT.—Section
12 3003(d) of Public Law 104–66 (31 U.S.C. 1113 note) is
13 amended—

14 (1) by striking “or” after the semicolon in
15 paragraph (31);

16 (2) by redesignating paragraph (32) as (33);
17 and

18 (3) by inserting after paragraph (31) the fol-
19 lowing:

20 “(32) section 27(k) of the Consumer Product
21 Safety Act (15 U.S.C. 2076(k)); or”.

22 **SEC. 204. EXPEDITED RULEMAKING.**

23 (a) RULEMAKING UNDER THE CONSUMER PRODUCT
24 SAFETY ACT.—

1 (1) ADVANCE NOTICE OF PROPOSED RULE-
2 MAKING REQUIREMENT.—Section 9 (15 U.S.C.
3 2058) is amended—

4 (A) by striking “shall be commenced” in
5 subsection (a) and inserting “may be com-
6 menced”;

7 (B) by striking “in the notice” in sub-
8 section (b) and inserting “in a notice”;

9 (C) by striking “unless, not less than 60
10 days after publication of the notice required in
11 subsection (a), the” in subsection (c) and in-
12 serting “unless the”;

13 (D) by inserting “or notice of proposed
14 rulemaking” after “advance notice of proposed
15 rulemaking” in subsection (c); and

16 (E) by striking “an advance notice of pro-
17 posed rulemaking under subsection (a) relating
18 to the product involved,” in the third sentence
19 of subsection (c) and inserting “the notice”.

20 (2) CONFORMING AMENDMENT.—Section
21 5(a)(3) (15 U.S.C. 2054(a)(3)) is amended by strik-
22 ing “an advance notice of proposed rulemaking or”.

23 (b) RULEMAKING UNDER FEDERAL HAZARDOUS
24 SUBSTANCES ACT.—

1 (1) IN GENERAL.—Section 3(a) of the Federal
2 Hazardous Substances Act (15 U.S.C. 1262(a)) is
3 amended to read as follows:

4 “(a) IN GENERAL.—Whenever in the judgment of the
5 Commission such action will promote the objectives of this
6 Act by avoiding or resolving uncertainty as to its applica-
7 tion, the Commission may by regulation declare to be a
8 hazardous substance, for the purposes of this Act, any
9 substance or mixture of substances, which the Commission
10 finds meets the requirements section 2(f)(1)(A).”.

11 (2) PROCEDURE.—

12 (A) Section 2(q)(2) of the Federal Haz-
13 ardous Substances Act (15 U.S.C. 1261(q)(2))
14 is amended by striking “Proceedings for the
15 issuance, amendment, or repeal of regulations
16 pursuant to clause (B) of subparagraph (1) of
17 this paragraph shall be governed by the provi-
18 sions of sections 701(e), (f), and (g) of the Fed-
19 eral Food, Drug, and Cosmetic Act: Provided,
20 That if” and inserting “Proceedings for the
21 issuance, amendment, or repeal of regulations
22 pursuant to clause (B) of subparagraph (1) of
23 this paragraph shall be governed by the provi-
24 sions of subsections (f) through (i) of section 3
25 of this Act, except that if”.

1 (B) Section 3(a)(2) of the Federal Haz-
2 arduous Substances Act (15 U.S.C. 1262(a)(2))
3 is amended to read as follows:

4 “(2) Proceedings for the issuance, amendment, or re-
5 peal of regulations under this subsection and the admissi-
6 bility of the record of such proceedings in other pro-
7 ceedings, shall be governed by the provisions of sub-
8 sections (f) through (i) of this section.”.

9 (3) ADVANCE NOTICE OF PROPOSED RULE-
10 MAKING REQUIREMENT.—Section 3 of the Federal
11 Hazardous Substances Act (15 U.S.C. 1262) is
12 amended—

13 (A) by striking “shall be commenced” in
14 subsection (f) and inserting “may be com-
15 menced”;

16 (B) by striking “in the notice” in sub-
17 section (g)(1) and inserting “in a notice”; and

18 (C) by striking “unless, not less than 60
19 days after publication of the notice required in
20 subsection (f), the” in subsection (h) and in-
21 serting “unless the”.

22 (4) CONFORMING AMENDMENTS.—The Federal
23 Hazardous Substances Act (15 U.S.C. 1261 et seq.)
24 is amended—

1 (A) by striking paragraph (d) of section 2
2 and inserting the following:

3 “(d) The term ‘Commission’ means the Con-
4 sumer Product Safety Commission.”;

5 (B) by striking “Secretary” each place it
6 appears and inserting “Commission” except—

7 (i) in section 10(b) (15 U.S.C. 1269);

8 (ii) in section 14 (15 U.S.C. 1273);

9 and

10 (iii) in section 21(a) (15 U.S.C.
11 1276(a));

12 (C) by striking “Department” each place it
13 appears, except in section 14(b), and inserting
14 “Commission”;

15 (D) by striking “he” and “his” each place
16 they appear in reference to the Secretary and
17 inserting “it” and “its”, respectively;

18 (E) by striking “Secretary of Health, Edu-
19 cation, and Welfare” each place it appears in
20 section 10(b) (15 U.S.C. 1269(b) and inserting
21 “Commission”;

22 (F) by striking “Secretary of Health, Edu-
23 cation, and Welfare” each place it appears in
24 section 14 (15 U.S.C. 1273) and inserting
25 “Commission”;

1 (G) by striking “Department of Health,
2 Education, and Welfare” in section 14(b) (15
3 U.S.C. 1273(b)) and inserting “Commission”;

4 (H) by striking “Consumer Product Safety
5 Commission” each place it appears and insert-
6 ing “Commission”; and

7 (I) by striking “(hereinafter in this section
8 referred to as the ‘Commission’)” in section
9 20(a)(1) (15 U.S.C. 1275(a)(1)).

10 (c) RULEMAKING UNDER THE FLAMMABLE FABRICS
11 ACT.—

12 (1) IN GENERAL.—Section 4 of the Flammable
13 Fabrics Act (15 U.S.C. 1193) is amended—

14 (A) by striking “shall be commenced” and
15 inserting “may be commenced by a notice of
16 proposed rulemaking or”;

17 (B) in subsection (i), by striking “unless,
18 not less than 60 days after publication of the
19 notice required in subsection (g), the” and in-
20 serting “unless the”.

21 (2) OTHER CONFORMING AMENDMENTS.—The
22 Flammable Fabrics Act (15 U.S.C. 1193 et seq.) is
23 further amended—

24 (A) by striking paragraph (i) of section 2
25 and inserting the following:

1 “(i) The term ‘Commission’ means the Con-
2 sumer Product Safety Commission.”;

3 (B) by striking “Secretary of Commerce”
4 each place it appears and inserting “the Com-
5 mission”;

6 (C) by striking “Secretary” each place it
7 appears, except in sections 9 and 14, and in-
8 serting “Commission”;

9 (D) by striking “he” and “his” each place
10 either term appears in reference to the sec-
11 retary and insert “it” and “its”, respectively;

12 (E) in section 4(e), by striking paragraph
13 (5) and redesignating paragraph (6) as para-
14 graph (5);

15 (F) in section 15, by striking “Consumer
16 Product Safety Commission (hereinafter re-
17 ferred to as the ‘Commission’)” and inserting
18 “Commission”;

19 (G) by striking section 16(d) and inserting
20 the following:

21 “(d) In this section, a reference to a flammability
22 standard or other regulation for a fabric, related mate-
23 rials, or product in effect under this Act includes a stand-
24 ard of flammability continued in effect by section 11 of

1 the Act of December 14, 1967 (Public Law 90–189).”;

2 and

3 (H) in section 17, by striking “Consumer
4 Product Safety Commission” and inserting
5 “Commission”.

6 **SEC. 205. PUBLIC DISCLOSURE OF INFORMATION.**

7 Section 6(b) (15 U.S.C. 2055(b)) is amended—

8 (1) in paragraph (1)—

9 (A) by striking “30 days” and inserting
10 “15 days”;

11 (B) by striking “finds that the public” and
12 inserting “publishes a finding that the public”;
13 and

14 (C) by striking “and publishes such a find-
15 ing in the Federal Register”;

16 (2) in paragraph (2)—

17 (A) by striking “10 days” and inserting “5
18 days”;

19 (B) by striking “finds that the public” and
20 inserting “publishes a finding that the public”;
21 and

22 (C) by striking “and publishes such a find-
23 ing in the Federal Register”;

24 (3) in paragraph (4), by striking “section 19
25 (related to prohibited acts)” and inserting “any con-

1 consumer product safety rule under or provision of this
2 Act or similar rule under or provision of any other
3 Act administered by the Commission”; and

4 (4) in paragraph (5)—

5 (A) in subparagraph (B), by striking “;
6 or” and inserting a semicolon;

7 (B) in subparagraph (C), by striking the
8 period and inserting “; or”;

9 (C) by adding at the end the following:

10 “(D) the Commission publishes a finding that
11 the public health and safety require public disclosure
12 with a lesser period of notice than is required under
13 paragraph (1).”; and

14 (D) in the matter following such subpara-
15 graph (as added by subparagraph (C)), by
16 striking “section 19(a)” and inserting “any
17 consumer product safety rule under this Act or
18 similar rule under or provision of any other Act
19 administered by the Commission”.

20 **SEC. 206. PUBLICLY AVAILABLE INFORMATION ON INCI-**
21 **DENTS INVOLVING INJURY OR DEATH.**

22 (a) **EVALUATION.**—The Commission shall examine
23 and assess the efficacy of the Injury Information Clearing-
24 house maintained by the Commission pursuant to section
25 5(a) of the Consumer Product Safety Act (15 U.S.C.

1 2054(a)). The Commission shall determine the volume and
2 types of publicly available information on incidents involv-
3 ing consumer products that result in injury, illness, or
4 death and the ease and manner in which consumers can
5 access such information.

6 (b) IMPROVEMENT PLAN.—As a result of the study
7 conducted under subsection (a), the Commission shall
8 transmit to Congress, not later than 180 days after the
9 date of enactment of this Act, a detailed plan for main-
10 taining and categorizing such information on a searchable
11 Internet database to make the information more easily
12 available and beneficial to consumers, with due regard for
13 the protection of personal information. Such plan shall in-
14 clude the views of the Commission regarding whether ad-
15 ditional information, such as consumer complaints, hos-
16 pital or other medical reports, and warranty claims, should
17 be included in the database. The plan submitted under
18 this subsection shall include a detailed implementation
19 schedule for the database, recommendations for any nec-
20 essary legislation, and plans for a public awareness cam-
21 paign to be conducted by the Commission to increase con-
22 sumer awareness of the database.

23 **SEC. 207. PROHIBITION ON STOCKPILING UNDER OTHER**
24 **COMMISSION-ENFORCED STATUTES.**

25 Section 9(g)(2) (15 U.S.C. 2058(g)(2)) is amended—

1 **SEC. 209. CORRECTIVE ACTION PLANS.**

2 (a) CORRECTIVE ACTION PLANS.—Section 15(d) (15
3 U.S.C. 2064(d)) is amended—

4 (1) by inserting “(1)” after the subsection des-
5 ignation;

6 (2) by redesignating paragraphs (1), (2), and
7 (3) as subparagraphs (A), (B), and (C);

8 (3) by striking “more (A)” in subparagraph
9 (C), as redesignated, and inserting “more (i)”;

10 (4) by striking “or (B)” in subparagraph (C),
11 as redesignated, and inserting “or (ii)”;

12 (5) by striking “An order under this subsection
13 may” and inserting:

14 “(2) An order under this subsection shall”;

15 (6) by striking “, satisfactory to the Commis-
16 sion,” and inserting “, as promptly as practicable
17 under the circumstances, as determined by the Com-
18 mission, for approval by the Commission,”; and

19 (7) by adding at the end the following:

20 “(3)(A) If the Commission approves an action plan,
21 it shall indicate its approval in writing.

22 “(B) If the Commission finds that an approved action
23 plan is not effective or appropriate under the cir-
24 cumstances, or that the manufacturer, retailer, or dis-
25 tributor is not executing an approved action plan effec-
26 tively, the Commission may, by order, amend, or require

1 amendment of, the action plan. In determining whether
2 an approved plan is effective or appropriate under the cir-
3 cumstances, the Commission shall consider whether a re-
4 pair or replacement changes the intended functionality of
5 the product.

6 “(C) If the Commission determines, after notice and
7 opportunity for comment, that a manufacturer, retailer,
8 or distributor has failed to comply substantially with its
9 obligations under its action plan, the Commission may re-
10 voke its approval of the action plan.”.

11 (b) CONTENT OF NOTICE.—Section 15 is further
12 amended by adding at the end the following:

13 “(i) Not later than 180 days after the date of enact-
14 ment of this Act, the Commission shall, by rule, establish
15 guidelines setting forth a uniform class of information to
16 be included in any notice required under an order under
17 subsection (c) or (d) of this section or under section 12.
18 Such guidelines shall include any information that the
19 Commission determines would be helpful to consumers
20 in—

21 “(1) identifying the specific product that is sub-
22 ject to such an order;

23 “(2) understanding the hazard that has been
24 identified with such product (including information

1 regarding incidents or injuries known to have oc-
2 curred involving such product); and

3 “(3) understanding what remedy, if any, is
4 available to a consumer who has purchased the prod-
5 uct.”.

6 **SEC. 210. WEBSITE NOTICE, NOTICE TO THIRD PARTY**
7 **INTERNET SELLERS, AND RADIO AND TELE-**
8 **VISION NOTICE.**

9 Section 15(c)(1) (15 U.S.C. 2064(c)(1)) is amended
10 by inserting “, including posting clear and conspicuous no-
11 tice on its Internet website, providing notice to any third
12 party Internet website on which such manufacturer, re-
13 tailer, or distributor has placed the product for sale, and
14 announcements in languages other than English and on
15 radio and television where the Commission determines
16 that a substantial number of consumers to whom the recall
17 is directed may not be reached by other notice” after
18 “comply”.

19 **SEC. 211. INSPECTION OF CERTIFIED PROPRIETARY LAB-**
20 **ORATORIES.**

21 Section 16(a)(1) is amended by striking “or (B)” and
22 inserting “(B) any proprietary laboratories certified under
23 section 14(e), or (C)”.

1 **SEC. 212. IDENTIFICATION OF MANUFACTURER, IMPORT-**
2 **ERS, RETAILERS, AND DISTRIBUTORS.**

3 (a) IN GENERAL.—Section 16 (15 U.S.C. 2065) is
4 further amended by adding at the end thereof the fol-
5 lowing:

6 “(c) Upon request by an officer or employee duly des-
7 ignated by the Commission—

8 “(1) every importer, retailer, or distributor of a
9 consumer product (or other product or substance
10 over which the Commission has jurisdiction under
11 this or any other Act) shall identify the manufac-
12 turer of that product by name, address, or such
13 other identifying information as the officer or em-
14 ployee may request, to the extent that such informa-
15 tion is in the possession of the importer, retailer, or
16 distributor; and

17 “(2) every manufacturer shall identify by name,
18 address, or such other identifying information as the
19 officer or employee may request—

20 “(A) each retailer or distributor to which
21 the manufacturer directly supplied a given con-
22 sumer product (or other product or substance
23 over which the Commission has jurisdiction
24 under this or any other Act);

1 “(2) is subject to an order issued under section
2 12 or 15 of this Act or designated as a banned haz-
3 ardous substance under the Federal Hazardous Sub-
4 stances Act (15 U.S.C. 1261 et seq.); or

5 “(3) is subject to a voluntary corrective action
6 taken by the manufacturer, in consultation with the
7 Commission, of which action the Commission has
8 notified the public and that would have been subject
9 to a mandatory corrective action under this or an-
10 other Act enforced by the Commission if voluntary
11 action had not been taken by the manufacturer,
12 unless the importing country has notified the Commission
13 that such country accepts the importation of such product,
14 provided that if the importing country has not so notified
15 the Commission within 30 days after the Commission has
16 provided notice to the importing country of the impending
17 shipment, the Commission may take such action as is ap-
18 propriate with respect to the disposition of the product
19 under the circumstances.”.

20 (b) PROHIBITED ACT.—Section 19(a)(10) (15 U.S.C.
21 2068(a)(10)) is amended by striking the period at the end
22 and inserting “ or violate an order of the Commission
23 issued under section 18(c); or”.

24 (c) CONFORMING AMENDMENTS TO OTHER ACTS.—

1 (1) FEDERAL HAZARDOUS SUBSTANCES ACT.—
2 Section 5(b)(3) of the Federal Hazardous Sub-
3 stances Act (15 U.S.C. 1264(b)(3)) is amended by
4 striking “substance presents an unreasonable risk of
5 injury to persons residing in the United States” and
6 inserting “substance is prohibited under section
7 18(c) of the Consumer Product Safety Act,”.

8 (2) FLAMMABLE FABRICS ACT.—Section 15 of
9 the Flammable Fabrics Act (15 U.S.C. 1202) is
10 amended by adding at the end the following:

11 “(d) Notwithstanding any other provision of this sec-
12 tion, the Consumer Product Safety Commission may pro-
13 hibit, by order, a person from exporting from the United
14 States for purpose of sale any fabric, related material, or
15 product that the Commission determines, after notice to
16 the manufacturer—

17 “(1) is not in conformity with an applicable
18 consumer product safety rule under the Consumer
19 Product Safety Act or with a rule under this Act;

20 “(2) is subject to an order issued under section
21 12 or 15 of the Consumer Product Safety Act or
22 designated as a banned hazardous substance under
23 the Federal Hazardous Substances Act (15 U.S.C.
24 1261 et seq.); or

1 “(3) is subject to a voluntary corrective action
2 taken by the manufacturer, in consultation with the
3 Commission, of which action the Commission has
4 notified the public and that would have been subject
5 to a mandatory corrective action under this or an-
6 other Act enforced by the Commission if voluntary
7 action had not been taken by the manufacturer,
8 unless the importing country has notified the Commission
9 that such country accepts the importation of such product,
10 provided that if the importing country has not so notified
11 the Commission within 30 days after the Commission has
12 provided notice to the importing country of the impending
13 shipment, the Commission may take such action as is ap-
14 propriate with respect to the disposition of the product
15 under the circumstances.”.

16 **SEC. 214. PROHIBITION ON SALE OF RECALLED PRODUCTS.**

17 Section 19(a) (as amended by section 210) (15
18 U.S.C. 2068(a)) is further amended—

19 (1) by striking paragraph (1) and inserting the
20 following:

21 “(1) sell, offer for sale, manufacture for sale,
22 distribute in commerce, or import into the United
23 States any consumer product, or other product or
24 substance that is regulated under any other Act en-
25 forced by the Commission, that is—

1 “(A) not in conformity with an applicable
2 consumer product safety standard under this
3 Act, or any similar rule under any such other
4 Act;

5 “(B) subject to voluntary corrective action
6 taken by the manufacturer, in consultation with
7 the Commission, of which action the Commis-
8 sion has notified the public;

9 “(C) subject to an order issued under sec-
10 tion 12 or 15 of this Act; or

11 “(D) designated a banned hazardous sub-
12 stance under the Federal Hazardous Sub-
13 stances Act (15 U.S.C. 1261 et seq.);”;

14 (2) by striking “or” after the semicolon in
15 paragraph (7);

16 (3) by striking “and” after the semicolon in
17 paragraph (8); and

18 (4) by striking “insulation).” in paragraph (9)
19 and inserting “insulation);”.

20 **SEC. 215. INCREASED CIVIL PENALTY.**

21 (a) **MAXIMUM CIVIL PENALTIES OF THE CONSUMER**
22 **PRODUCT SAFETY COMMISSION.—**

23 (1) **INITIAL INCREASE IN MAXIMUM CIVIL PEN-**
24 **ALTIES.—**

1 (A) TEMPORARY INCREASE.—Notwith-
2 standing the dollar amounts specified for max-
3 imum civil penalties specified in section
4 20(a)(1) of the Consumer Product Safety Act
5 (15 U.S.C. 2069(a)(1)), section 5(e)(1) of the
6 Federal Hazardous Substances Act, and section
7 5(e)(1) of the Flammable Fabrics Act (15
8 U.S.C. 1194(e)(1)), the maximum civil pen-
9 alties for any violation specified in such sections
10 shall be \$5,000,000, beginning on the date that
11 is the earlier of the date on which final regula-
12 tions are issued under section 3(b) or 360 days
13 after the date of enactment of this Act.

14 (B) EFFECTIVE DATE.—Paragraph (1)
15 shall cease to be in effect on the date on which
16 the amendments made by subsection (b)(1)
17 shall take effect.

18 (2) PERMANENT INCREASE IN MAXIMUM CIVIL
19 PENALTIES.—

20 (A) AMENDMENTS.—

21 (i) CONSUMER PRODUCT SAFETY
22 ACT.—Section 20(a)(1) 15 U.S.C.
23 2069(a)(1) is amended by striking
24 “\$1,250,000” both places it appears and
25 inserting “\$10,000,000”.

1 (ii) FEDERAL HAZARDOUS SUB-
2 STANCES ACT.—Section 5(c)(1) of the Fed-
3 eral Hazardous Substances Act (15 U.S.C.
4 1264(c)(1)) is amended by striking
5 “\$1,250,000” both places it appears and
6 inserting “\$10,000,000”.

7 (iii) FLAMMABLE FABRICS ACT.—Sec-
8 tion 5(e)(1) of the Flammable Fabrics Act
9 (15 U.S.C. 1194(e)(1)) is amended by
10 striking “\$1,250,000” and inserting
11 “\$10,000,000”.

12 (B) EFFECTIVE DATE.—The amendments
13 made by paragraph (1) shall take effect on the
14 date that is 1 year after the earlier of—

15 (i) the date on which final regulations
16 are issued pursuant to section 3(b); or

17 (ii) 360 days after the date of enact-
18 ment of this Act.

19 (b) DETERMINATION OF PENALTIES BY THE CON-
20 SUMER PRODUCT SAFETY COMMISSION.—

21 (1) FACTORS TO BE CONSIDERED.—

22 (A) CONSUMER PRODUCT SAFETY ACT.—
23 Section 20(b) (15 U.S.C. 2069(b)) is amend-
24 ed—

1 (i) by inserting “the nature, cir-
2 cumstances, extent, and gravity of the vio-
3 lation, including” after “shall consider”;

4 (ii) by striking “products distributed,
5 and” and inserting “products distrib-
6 uted,”; and

7 (iii) by inserting “, and such other
8 factors as appropriate” before the period.

9 (B) FEDERAL HAZARDOUS SUBSTANCES
10 ACT.—Section 5(c)(3) of the Federal Haz-
11 ardous Substances Act (15 U.S.C. 1264(c)(3))
12 is amended—

13 (i) by inserting “the nature, cir-
14 cumstances, extent ,and gravity of the vio-
15 lation, including” after “shall consider”;

16 (ii) by striking “substance distributed,
17 and” and inserting “substance distrib-
18 uted,”; and

19 (iii) by inserting “, and such other
20 factors as appropriate” before the period.

21 (C) FLAMMABLE FABRICS ACT.—Section
22 5(e)(2) of the Flammable Fabrics Act (15
23 U.S.C. 1194(e)(2)) is amended—

1 (i) by striking “nature and number”
2 and inserting “nature, circumstances, ex-
3 tent, and gravity”;

4 (ii) by striking “absence of injury,
5 and” and inserting “absence of injury,”;
6 and

7 (iii) by inserting “, and such other
8 factors as appropriate” before the period.

9 (2) REGULATIONS.—Not later than 1 year after
10 the date of enactment of this Act, and in accordance
11 with the procedures of section 553 of title 5, United
12 States Code, the Commission shall issue a final reg-
13 ulation providing its interpretation of the penalty
14 factors described in section 20(b) of the Consumer
15 Product Safety Act (15 U.S.C. 2069(b)), section
16 5(c)(3) of the Federal Hazardous Substances Act
17 (15 U.S.C. 1264(e)(3)), and section 5(e)(2) of the
18 Flammable Fabrics Act (15 U.S.C. 1194(e)(2)), as
19 amended by subsection (a).

20 **SEC. 216. CRIMINAL PENALTIES TO INCLUDE ASSET FOR-**
21 **FEITURE.**

22 Section 21 (15 U.S.C. 2070) is amended by adding
23 at the end thereof the following:

24 “(c)(1) In addition to the penalty provided by sub-
25 section (a), the penalty for a criminal violation of this Act

1 or any other Act enforced by the Commission may include
2 the forfeiture of assets associated with the violation.

3 “(2) In this subsection, the term ‘criminal violation’
4 means a violation of this Act or any other Act enforced
5 by the Commission for which the violator is sentenced
6 under this section, section 5(a) of the Federal hazardous
7 Substances Act (15 U.S.C. 2064(a)), or section 7 of the
8 Flammable Fabrics Act (15 U.S.C. 1196).”

9 **SEC. 217. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

10 Section 24 (15 U.S.C. 2073) is amended—

11 (1) in the section heading, by striking “PRI-
12 VATE” and inserting “ADDITIONAL”;

13 (2) by striking “Any interested person” and in-
14 serting “(a) Any interested person”; and

15 (3) by striking “No separate suit” and all that
16 follows and inserting the following:

17 “(b)(1) The attorney general of a State, alleging a
18 violation of section 19(a) that affects or may affect such
19 State or its residents may bring an action on behalf of
20 the residents of the State in any United States district
21 court for the district in which the defendant is found or
22 transacts business to enforce a consumer product safety
23 rule or an order under section 15, and to obtain appro-
24 priate injunctive relief.

1 “(2) Not less than thirty days prior to the commence-
2 ment of such action, the attorney general shall give notice
3 by registered mail to the Commission, to the Attorney
4 General, and to the person against whom such action is
5 directed. Such notice shall state the nature of the alleged
6 violation of any such standard or order, the relief to be
7 requested, and the court in which the action will be
8 brought. The Commission shall have the right—

9 “(A) to intervene in the action;

10 “(B) upon so intervening, to be heard on all
11 matters arising therein;

12 “(C) and to file petitions for appeal.

13 “(c) No separate suit shall be brought under this sec-
14 tion if at the time the suit is brought the same alleged
15 violation is the subject of a pending civil or criminal action
16 by the United States under this Act. In any action under
17 this section the court may in the interest of justice award
18 the costs of suit, including reasonable attorneys’ fees (de-
19 termined in accordance with section 11(f)) and reasonable
20 expert witnesses’ fees.”.

21 **SEC. 218. EFFECT OF RULES ON PREEMPTION.**

22 In issuing any rule or regulation in accordance with
23 its statutory authority, the Commission shall not seek to
24 expand or contract the scope, or limit, modify, interpret,
25 or extend the application of sections 25 and 26 of the Con-

1 consumer Products Safety Act (15 U.S.C. 2074 and 2075,
2 respectively), section 18 of the Federal Hazardous Sub-
3 stances Act (15 U.S.C. 1261), section 7 of the Poison Pre-
4 vention Packaging Act (15 U.S.C. 1476), or section 16
5 of the Flammable Fabrics Act (15 U.S.C. 1203) with re-
6 gard to the extent to which each such Act preempts, limits,
7 or otherwise affects any other Federal, State, or local law,
8 or limits or otherwise affects any cause of action under
9 State or local law.

10 **SEC. 219. SHARING OF INFORMATION WITH FEDERAL,**
11 **STATE, LOCAL, AND FOREIGN GOVERNMENT**
12 **AGENCIES.**

13 Section 29 (15 U.S.C. 2078) is amended by adding
14 at the end the following:

15 “(f)(1) The Commission may make information ob-
16 tained by the Commission under this Act available (con-
17 sistent with the requirements of section 6) to any Federal,
18 State, local, or foreign government agency upon the prior
19 certification of an appropriate official of any such agency,
20 either by a prior agreement or memorandum of under-
21 standing with the Commission or by other written certifi-
22 cation, that such material will be maintained in confidence
23 and will be used only for official law enforcement or con-
24 sumer protection purposes, if—

1 “(A) the agency has set forth a bona fide legal
2 basis for its authority to maintain the material in
3 confidence;

4 “(B) the materials are to be used for purposes
5 of investigating, or engaging in enforcement pro-
6 ceedings related to, possible violations of—

7 “(i) laws regulating the manufacture, im-
8 portation, distribution, or sale of defective or
9 unsafe consumer products, or other practices
10 substantially similar to practices prohibited by
11 any law administered by the Commission;

12 “(ii) a law administered by the Commis-
13 sion, if disclosure of the material would further
14 a Commission investigation or enforcement pro-
15 ceeding; or

16 “(iii) with respect to a foreign law enforce-
17 ment agency, with the approval of the Attorney
18 General, other foreign criminal laws, if such
19 foreign criminal laws are offenses defined in or
20 covered by a criminal mutual legal assistance
21 treaty in force between the government of the
22 United States and the foreign law enforcement
23 agency’s government; and

24 “(C) in the case of a foreign government agen-
25 cy, such agency is not from a foreign state that the

1 Secretary of State has determined, in accordance
2 with section 6(j) of the Export Administration Act
3 of 1979 (50 U.S.C. App. 2405(j)), has repeatedly
4 provided support for acts of international terrorism,
5 unless and until such determination is rescinded
6 pursuant to section 6(j)(4) of that Act (50 U.S.C.
7 App. 2405(j)(4)).

8 “(2) The Commission may abrogate any agree-
9 ment or memorandum of understanding entered into
10 under paragraph (1) if the Commission determines
11 that the agency with which such agreement or
12 memorandum of understanding was entered into has
13 failed to maintain in confidence any information pro-
14 vided under such agreement or memorandum of un-
15 derstanding, or has used any such information for
16 purposes other than those set forth in such agree-
17 ment or memorandum of understanding.

18 “(3)(A) Except as provided in subparagraph
19 (B) of this paragraph, the Commission shall not be
20 required to disclose under section 552 of title 5,
21 United States Code, or any other provision of law—

22 “(i) any material obtained from a foreign
23 government agency, if the foreign government
24 agency has requested confidential treatment, or
25 has precluded such disclosure under other use

1 limitations, as a condition of providing the ma-
2 terial;

3 “(ii) any material reflecting a consumer
4 complaint obtained from any other foreign
5 source, if that foreign source supplying the ma-
6 terial has requested confidential treatment as a
7 condition of providing the material; or

8 “(iii) any material reflecting a consumer
9 complaint submitted to a Commission reporting
10 mechanism sponsored in part by foreign govern-
11 ment agencies.

12 “(B) Nothing in this subsection shall authorize
13 the Commission to withhold information from the
14 Congress or prevent the Commission from complying
15 with an order of a court of the United States in an
16 action commenced by the United States or the Com-
17 mission.

18 “(4) In this subsection, the term ‘foreign government
19 agency’ means—

20 “(A) any agency or judicial authority of a for-
21 eign government, including a foreign state, a polit-
22 ical subdivision of a foreign state, or a multinational
23 organization constituted by and comprised of foreign
24 states, that is vested with law enforcement or inves-

1 tigative authority in civil, criminal, or administrative
2 matters; and

3 “(B) any multinational organization, to the ex-
4 tent that it is acting on behalf of an entity described
5 in subparagraph (A).

6 “(g) Whenever the Commission is notified of any vol-
7 untary recall of any consumer product self-initiated by a
8 manufacturer (or a retailer in the case of a retailer selling
9 a product under its own label), or issues an order under
10 section 15(c) or (d) with respect to any product, the Com-
11 mission shall notify each State’s health department or
12 other agency designated by the State of the recall or
13 order.”.

14 **SEC. 220. INSPECTOR GENERAL AUTHORITY AND ACCESSI-**
15 **BILITY.**

16 (a) REPORT.—Not later than 60 days after the date
17 of the enactment of this Act, the Inspector General of the
18 Commission shall transmit a report to Congress on the
19 activities of the Inspector General, any structural barriers
20 which prevent the Inspector General from providing robust
21 oversight of the activities of the Commission, and any ad-
22 ditional authority or resources that would facilitate more
23 effective oversight.

24 (b) EMPLOYEE COMPLAINTS.—

1 (1) IN GENERAL.—The Inspector General of
2 the Commission shall conduct a review of—

3 (A) complaints received by the Inspector
4 General from employees of the Commission
5 about violations of rules, regulations, or the
6 provisions of any Act enforced by the Commis-
7 sion; and

8 (B) the process by which corrective action
9 plans are negotiated with such employees by the
10 Commission, including an assessment of the
11 length of time for these negotiations and the ef-
12 fectiveness of the plans.

13 (2) REPORT.—Not later than 1 year after the
14 date of enactment of this Act, the Inspector General
15 shall transmit a report to the Commission and to
16 Congress setting forth the Inspector General's find-
17 ings, conclusions, actions taken in response to em-
18 ployee complaints, and recommendations.

19 (c) COMPLAINT PROCEDURE.—Not later than 30
20 days after the date of enactment of this Act the Commis-
21 sion shall establish and maintain on the homepage of the
22 Commission's Internet website a mechanism by which in-
23 dividuals may anonymously report incidents of waste,
24 fraud, or abuse with respect to the Commission.

1 **SEC. 221. REPEAL.**

2 Section 30 (15 U.S.C. 2079) is amended by striking
3 subsection (d) and redesignating subsections (e) and (f)
4 as subsections (d) and (e), respectively.

5 **SEC. 222. INDUSTRY-SPONSORED TRAVEL BAN.**

6 The Consumer Product Safety Act (15 U.S.C. 1251
7 et seq.) is amended by adding at the end the following
8 new section:

9 **“SEC. 38. PROHIBITION ON INDUSTRY-SPONSORED TRAVEL.**

10 “(a) PROHIBITION.—Notwithstanding section 1353
11 of title 31, United States Code, no Commissioner or em-
12 ployee of the Commission shall accept travel, subsistence,
13 and related expenses with respect to attendance by a Com-
14 missioner or employee at any meeting or similar function
15 relating to official duties of a Commissioner or an em-
16 ployee, from a person—

17 “(1) seeking official action from, doing business
18 with, or conducting activities regulated by, the Com-
19 mission; or

20 “(2) whose interests may be substantially af-
21 fected by the performance or nonperformance of the
22 Commissioner’s or employee’s official duties.

23 “(b) AUTHORIZATION OF APPROPRIATIONS FOR OF-
24 FICIAL TRAVEL.—There are authorized to be appro-
25 priated, for each of fiscal years 2009 through 2011,
26 \$1,200,000 to the Commission for certain travel and lodg-

1 ing expenses necessary in furtherance of the official duties
2 of Commissioners and employees.”.

3 **SEC. 223. ANNUAL REPORTING REQUIREMENT.**

4 Section 27(j) (15 U.S.C. 2076(j)) is amended—

5 (1) in the matter preceding paragraph (1), by
6 striking “The Commission” and inserting “Notwith-
7 standing section 3003 of the Federal Reports Elimini-
8 nation and Sunset Act of 1995 (31 U.S.C. 1113
9 note), the Commission”; and

10 (2) by redesignating paragraphs (5) through
11 (11) as paragraphs (6) through (12), respectively
12 and inserting after paragraph (4) the following:

13 “(5) the number and summary of recall orders
14 issued under section 12 or 15 during such year and
15 a summary of voluntary actions taken by manufac-
16 turers of which the Commission has notified the
17 public, and an assessment of such orders and ac-
18 tions;”.